

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

_____	:	
DONALD HIGGS,	:	
	:	Civil No. 15-2900 (BRM)(JSA)
Plaintiff,	:	
	:	
v.	:	MEMORANDUM and ORDER
	:	
MICHAEL MYERS, et al.,	:	
	:	
Defendants.	:	
_____	:	

Before the Court is the motion for summary judgment filed by Defendants Michael Myers and Mark Green (“Defendants”), seeking judgment in their favor on Plaintiff Donald Higgs’s (“Plaintiff”) Section 1983 and New Jersey Civil Rights claims against them. (ECF No. 231.)

The Court finds Defendants’ motion for summary judgment is deficient. Under Federal Rule of Civil Procedure 56(c)(1)(A), any party asserting that a fact is or is not in dispute must support that assertion by “*citing* to particular parts of material in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations . . . , admissions, interrogatory answer, or other materials.” (emphasis added). New Jersey Local Civil Rule 56.1(a) supplements the federal rule and provides in relevant part:

On motions for summary judgment, the movant shall furnish a statement which sets forth material facts as to which there does not exist a genuine issue, in separately numbered paragraphs citing to the affidavits and other documents submitted in support of the motion. A motion for summary judgment unaccompanied by a statement of material facts not in dispute shall be dismissed.

Here, Defendants have failed to comply with Local Civil Rule 56.1(a). Defendants have failed to submit a statement of material facts in separately numbered paragraphs citing to affidavits

and other documents submitted in support of the motion. Additionally, Defendants' brief in support of its motion for summary judgment fails to provide the Court with any substantive statement of facts. Rather, Defendants submit only that Plaintiff alleges Defendants wrongfully arrested Plaintiff and falsified police reports. The brief is devoid of any description of the facts pled by Plaintiff or what Defendants assert are undisputed facts.

Accordingly,

IT IS on this 6th day of June 2023,

ORDERED Defendants' motion for summary judgment (ECF No. 231) is **DENIED WITHOUT PREJUDICE** for failure to comply with New Jersey Local Civil Rule 56.1(a); and it is further

ORDERED that Defendants may file a renewed motion for summary judgment within thirty (30) days of the date of this order that cures the above noted deficiencies; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order on Petitioner by regular mail and upon Defendants electronically.

/s/Brian R. Martinotti

HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE